

REMARKS

Claims **1-4, 9-10, 12-15, 20-21, 24,** and **27-56** were pending in this application. According to the May 3, 2007 Office Action, claims **1-4, 9-10, 12-15, 20-21, 24,** and **27-56** were rejected.

We have amended independent claims **1, 12,** and **47,** and dependent claims **2-4, 9-10, 13-15, 20-21, 24, 27-29, 31-35, 37-45, 51** and **53-56,** and have added new independent claim **58,** and new dependent claims **57** and **59-61** to recite particular embodiments that we, in our business judgment, have currently determined to be commercially desirable. We have canceled dependent claims **30, 48-50,** and **52.** We will pursue the subject matter of the previously presented and cancelled claims in one or more continuing applications. The amendments do not introduce any new matter.

Accordingly, the following claims are under consideration:

- Independent claims **1, 12, 47,** and **58.**
- Dependent claims **2-4, 9-10, 13-15, 20-21, 24, 27-29, 31-46, 51, 53-57,** and **59-61.**

1.0 Response to the rejection of the claims under 35 U.S.C. § 103(a).

At pages 2-5 of the Office Action previously presented claims **1-4, 9-10, 12-15, 20-21, 24,** and **27-56** were rejected under 35 U.S.C § 103(a) as being unpatentable over May, U.S. Patent No. 6,317,727 (hereinafter May), in view of Wiseman, U.S. Patent No. 5,168,446 (hereinafter Wiseman), and in further view of Stroh, U.S. Patent No. 7,155,409 (hereinafter Stroh). As indicated, claims **30, 48-50,** and **52** have been canceled.

As set forth in the MPEP, to establish a *prima facie* case of obviousness, (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, and (2) the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2143.

Notably, a factual finding of a suggestion or motivation to modify a reference must be supported with substantial evidence of record. Novamedix Distrib. Ltd. v. Dickinson, 175 F. Supp. 2d 8, 9 (D.D.C. 2001); In re Zurko, 258 F.3d 1379, 1383-86 (Fed. Cir. 2001); In re Lee,

277 F.3d 1338, 1342 (Fed. Cir. 2002). In particular, conclusory statements regarding the factual question of motivation must be supported by evidence of record and without such evidence, lack substantial evidence support and are thereby insufficient to establish a *prima facie* case of obviousness. In re Lee, 277 F.3d at 1343-45; In re Zurko, 258 F.3d at 1385.

As further discussed below, the combination of May, Wiseman, and Stroh fails to teach, suggest, or disclose all the limitations of any of claims **1-4, 9-10, 12-15, 20-21, 24, 27-29, 31-47, 51, and 53-56**. In addition, the Examiner failed to provide any evidence of record to support a suggestion or motivation to combine May, Wiseman, and Stroh.

1.1 The combination of May, Wiseman, and Stroh fails to teach, suggest, or disclose all the limitations of any of claims 1-4, 9-10, 12-15, 20-21, 24, 27-29, 31-47, 51, and 53-56.

Amended claim 1 recites in part a method comprising

shutting off ... an ability to trade in the trading market when the accumulated position ... exceeds the trading limit.

In rejecting claim 1, the Examiner indicated that May does not disclose the above limitations of claim 1.

Rather, the Examiner indicated that Wiseman, at column 17, line 65 to column 18, line 42, “discloses trading for the counterparty with all other counterparties with which the counterparty may trade when the accumulated position for the counterparty exceeds the trading limit when he discloses the system suspends trading.”

First, we note that previously presented claim 1 does not recite “trading for the counterparty with all other counterparties with which the counterparty may trade,” contrary to the Examiner’s assertions. Nonetheless, we will proceed under the assumption that the Examiner intended to assert that Wiseman discloses, at least in part, “*shutting off ... an ability to trade in the trading market when the accumulated position ... exceeds the trading limit,*” as claim 1 recites.

Second, we note that Wiseman, at column 17, line 65 to column 18, line 42, makes no mention that the “system suspends trading,” contrary to the Examiner’s assertions. Rather, the only reference Wiseman appears to make to the suspending of trading appears to be at column 13, lines 26-40. The Examiner appeared to refer to this portion of Wiseman when rejecting

claim 1 in that this portion of Wiseman is consistent with text the Examiner noted at page 3 the Office Action. We will proceed under the assumption that the Examiner intended to reject claim 1, at least in part, in view of Wiseman, column 13, lines 26-40.

In rejecting claim 1, the Examiner at page 3 of the Office Action appeared to assert that Wiseman discloses “suspend[ing] a trade” “when counterparty and other counterparties exceeds one trading limit due to credit limits.” Notably, at column 13, lines 26-40 Wiseman appears to disclose that the “slate also permits the operator ... to suspend trading and alter the Trader's Profile or review completed transactions.” Suspending a trade to alter a profile or review transactions as disclosed by Wiseman is not “suspend[ing] a trade” “when counterparty and other counterparties exceeds one trading limit due to credit limits,” contrary to the Examiner's assertions. In fact, at column 13, lines 26-40 (and for that matter, at column 17, line 65 to column 18, line 42) Wiseman does not appear to make any reference to “exceed[ing] one trading limit due to credit limits,” let alone to “suspend[ing] a trade” “when ... exceed[ing] one trading limit due to credit limits,” contrary to the Examiner's assertions.

As important, suspending a trade to alter a profile or review transactions as disclosed by Wiseman is not “*shutting off ... an ability to trade in the trading market when the accumulated position ... exceeds the trading limit,*” as claim 1 recites. As such, the Examiner's references to Wiseman do not disclose the above limitations of claim 1.

In further rejecting claim 1, the Examiner at page 4 of the Office Action indicated that Stroh discloses at column 4, line 64 to column 6, line 15 “shutting off when the accumulated position for the counterparty exceeds the trading limit” and in particular, appeared to assert that Stroh discloses “closing the accounts” “when other parties exceeds one trading limit due to credit limits being denied.” We respectfully disagree.

At column 4, line 64 to column 6, line 15 Stroh appears to disclose a process by which a “seller S and [a] financial organisation FO conclud[e] a draft acceptance agreement defining the terms under which financial organisation FO will purchase accepted drafts from seller S... [Thereafter, seller S] solicit[es] a willing buyer B, ... [with] buyer B agree[ing] to pay for ... goods [from seller S] with one or more buyer-accepted trade drafts Because buyer B's credit has not yet been checked, seller S has to request pre-approval from financial organisation FO of the proposed sale defined by the purchase order If financial organisation FO denies approval,

the transaction is aborted.... [If] financial organisation FO pre-approves the proposed transaction, ... seller S ... ship[s] the goods to buyer B [and] ...also sends buyer B one or more trade acceptance drafts to be used for payment [B]uyer B ... sign[s] the drafts and return[s] them to seller S Seller S ... tenders [each draft] ... to financial organisation FO for purchase Financial organisation FO then checks buyer B's credit for changes ..., and if an adverse report is received, declines to purchase the drafts [If] a favorable report is received, financial organisation FO pays seller S an advance on the draft or drafts”

Notably, financial organisation FO’s checking of buyer B’s credit and the transaction between seller S and buyer B then being aborted and/or financial organisation FO then declining to purchase trade acceptance drafts from Seller S, as disclosed by Stroh, is not “closing the accounts” “when other parties exceeds one trading limit due to credit limits being denied,” contrary to the Examiner’s assertions. In fact, at column 4, line 64 to column 6, line 15 Stroh does not appear to make any reference to “den[ying] customers’ accounts,” to “denying of counterparties by closing the credits,” to “closing the accounts,” or to “exceed[ing] one trading limit due to credit limits being denied,” let alone to “closing the accounts” “when ... exceed[ing] one trading limit due to credit limits being denied,” contrary to the Examiner’s assertions.

As important, financial organisation FO’s checking of buyer B’s credit and the transaction between seller S and buyer B then being aborted and/or financial organisation FO then declining to purchase trade acceptance drafts from Seller S, as disclosed by Stroh, is not “*shutting off ... an ability to trade in the trading market when the accumulated position ... exceeds the trading limit*,” as claim 1 recites. As such, the Examiner’s references to Stroh do not disclose the above limitations of claim 1.

Accordingly, because May, Wiseman, and Stroh each fails to teach, suggest, or disclose “*shutting off ... an ability to trade in the trading market when the accumulated position ... exceeds the trading limit*,” as claim 1 recites, the combination of May, Wiseman, and Stroh also fails to teach, suggest, or disclose claim 1.

Regarding claims 2-4, 9-10, 24, 29, and 31-40, these claims depend from claim 1 and as such, are nonobvious in view of May, Wiseman, and Stroh for at least the same reasons as claim 1.

Turning to independent claims 12 and 47, these claims recite limitations similar to claim 1. As such, claims 12 and 47, in addition to claims 13-15, 20-21, 27-28, 41-46, 51, and 53-56, which depend there from, are nonobvious in view of May, Wiseman, and Stroh for at least the same reasons as claim 1.

1.2 The Examiner failed to show that the combination of May, Wiseman, and Stroh teach, suggest, or disclose all the limitations of any of claims 29-35, 41-45, and 48-52.

At page 5 of the Office Action, the Examiner rejected previously presented claims 29-35, 41-45, and 48-52 by asserting that “May and Wiseman teach a method as claimed in claims 1-4, 9-10, 12-15, 20-21, 24-25, and 27-28 ... [and] [t]herefore the rationale applied in the rejection of claims 1-4, 9-10, 12-15, 20-21, 24-25, and 27-28 applies herein.” We note that previously presented claims 29-35, 41-45, and 48-52 recite limitations not recited by previously presented claims 1-4, 9-10, 12-15, 20-21, 24-25, and 27-28. As such, the Examiner failed to show that the combination of May and Wiseman teach, suggest, or disclose all the limitations of any of claims 29-35, 41-45, and 48-52. Accordingly, the Examiner failed to establish a *prima facie* case of obviousness with respect to these claims.

1.3 The Examiner failed to provide any evidence of record to support a suggestion or motivation to modify May in view of Wiseman and Stroh.

In further rejecting previously presented claims 1-4, 9-10, 12-15, 20-21, 24, and 27-56, the Examiner appeared to assert that it would have been obvious to one of ordinary skill in the art to modify May in view of Wiseman “to enable trading for the counterparty when the counterparty and other counterparties exceeds one trading limit due to credit limits to temporary suspend a trade.” First, it is unclear what the Examiner means to both “enable trading” and “to temporary suspend a trade.” Second, regardless of the clarity of the Examiner’s statement, the statement is merely conclusory. In particular, the Examiner presented no evidence of record as to why it would be obvious to modify May in view of Wiseman “to enable trading for the counterparty when the counterparty and other counterparties exceeds one trading limit due to credit limits to temporary suspend a trade.” Accordingly, the Examiner failed to provide a

suggestion or motivation to modify May in view of Wiseman and as such, failed to make a *prima facie* case of obviousness with respect to the previously presented claims.

In further rejecting previously presented claims **1-4, 9-10, 12-15, 20-21, 24, and 27-56**, the Examiner also appeared to assert that it would have been obvious to one of ordinary skill in the art to modify May and Wiseman in view of Stroh “to enable trading for multiple parties when other parties exceeds one trading limit due to credit limits being denied by closing the accounts.” First, it is unclear what the Examiner means to both “enable trading” and “closing the accounts.” Second, regardless of the clarity of the Examiner’s statement, the statement is again merely conclusory. In particular, the Examiner presented no evidence of record as to why it would be obvious to modify May and Wiseman in view of Stroh “to enable trading for multiple parties when other parties exceeds one trading limit due to credit limits being denied by closing the accounts.” Accordingly, the Examiner failed to provide a suggestion or motivation to modify May and Wiseman in view of Stroh and as such, failed again to make a *prima facie* case of obviousness with respect to the previously presented claims.

2.0 New Claims 57-61.

New dependent claim **57** depends from independent claim **47** and as such, is nonobvious in view of May, Wiseman, and Stroh for at least the same reasons as claim **47**.

New independent claim **58** recites limitations similar to claim **1** and as such, claim **58**, in addition to claims **59-61** which depend there from, are nonobvious in view of May, Wiseman, and Stroh for at least the same reasons as claim **1**.

3.0 Conclusion.

Since May, Wiseman, and Stroh fail to teach or suggest claims **1-4, 9-10, 12-15, 20-21, 24, 27-29, 31-47, 51, and 53-61**, we submit that these claims are clearly allowable. Favorable reconsideration and allowance of these claims are therefore requested.

We earnestly believe that this application is now in condition to be passed to issue, and such action is also respectfully requested. However, if the Examiner deems it would in any way facilitate the prosecution of this application, the Examiner is invited to telephone our undersigned representative at 212-294-7733.

Respectfully submitted,

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Date

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